FCAAP Grant No. G0400000

between the

State Of Washington Department Of Ecology and

WILLOWS POND COUNTY

Project: River Bank Stabilization / Levee Rehabilitation

THIS is a binding agreement entered into by and between the State of Washington, Department of Ecology, (PO Box 47600, Olympia, Washington, 98504-7600) hereinafter referred to as the "DEPARTMENT" or as "ECOLOGY" and Willows Pond County, hereinafter referred to as the "RECIPIENT" to carry out the activities described herein as authorized by Chapters 86.26 RCW, 86.12 RCW, and further described in Chapter 173-145 WAC.

Recipient Name: Willows Pond County

Public Works Department

12345 Apple Lane

Willows Pond, WA 98111-6789

Recipient Project Coordinator: George Smith, City Administrator

Telephone Number: 360-111-2222 /Fax: 360-111-1111

e-mail address: gsmith@co.water.wa.us

Fiscal Contact for Recipient: Janet Gonzales; phone: 360-111-2221

Payee on Warrant: Willows Pond County Treasurer

(address as above)

Project Officer for the Department: Dan Sokol

Southwest Regional Office

PO Box 47775, Olympia, 98504-7775

Telephone Number: 360-407-7253 / Fax: 360-407-6305

e-mail address: dsok461@ecy.wa.gov

The source of funds provided by the DEPARTMENT is the Flood Control Assistance Account Program

funds.

Project Costs: Maximum Eligible Project Cost: \$77,300

Maximum State Grant Share: \$35,000 Estimated Local Share: \$42,300

State Maximum Cost Share Rate: 50% UP TO a maximum State Share of \$35,000.

The effective date of this agreement is September 1, 2003.

The Project described herein expires on and must be completed by June 30, 2005.

Scope of Work

Project Title: River Bank Stabilization/Levee Rehabilitation

Description: As identified in the County's CFHMP as a priority project, the Recipient shall

repair the eroded portions of the levee, the access road and the adjacent river bank to prevent further erosion of the levee structure and the unvegetated river bank. Bioengineering shall provide erosion control of the river bank; groins shall be installed in the river to slow the velocity of flood water. Both elements will improve fish habitat in this ESA bearing river. Environmental

data will be collected as part of this project, therefore a Quality

Assurance/Quality Control Plan will be prepared prior to the initiation of work.

Project Location: City of Riverbend, Section 8 + 9, Township 28N, Range 13W on the

west bank of the Nevasink River at River Mile 30.65 along "B" Drive at "B"

Street Northeast.

Work Program: The RECIPIENT shall comply with the local Comprehensive Flood Hazard

Management Plan if applicable, Shoreline Master Program, local

comprehensive plan, State Environmental Policy Act, and zoning ordinance and shall have acquired all necessary federal, state and local permits. Copies of all permits, plans, specifications, and documentation for compliance with

the Endangered Species Act shall be sent to Ecology prior to the

commencement of work. If GIS work or environmental measurement data is to be collected under this agreement, refer to paragraphs 6 and 7 of Special

Terms and Conditions of this agreement for compliance with Ecology

standards. Work tasks include:

Task 1: Performance Coordination

1.1: Coordination with Ecology's Project Officer

To assist the Recipient and ensure project results are consistent with the state laws and regulations for flood damage reduction, the Recipient, as part of this agreement, shall coordinate with Ecology's Project Officer, Ted Olson, phone: 509-456-2862 for technical assistance through a partnership approach.

1.2: Coordination with Washington State Department of Fish and Wildlife

The Recipient shall make all efforts to involve the Washington State Department of Fish and Wildlife local Fisheries biologist in the implementation of Flood Damage Reduction projects.

Task 2: Project Design

Based on environmental measurement data collected in Task 2 above, develop preliminary and final designs; document pre-project conditions and aquatic resources; prepare permit applications; pay required permit fees.

Deliverables: Two copies each: • Preliminary plan - due February 1, 2004

Final plan - due April 15, 2004

Task 4: Project Construction

- **4.1:** Initiate construction of approved plans: remove and re-slope approximately 55 feet of the upstream end of the levee to restore access to the top of the levee. Re-slope approximately 500 feet of riverbank and remove excess materials from the site.
- **4.2**: Replace nearly 500 feet of access road lost to river bank erosion.
- **4.3**: Establish a stable riverbank by installing large wood debris, large boulders, toe rock at or below the Ordinary High Water Mark along the toe of the bank which will also improve the character, variety, and complexity of in-stream habitat opportunities for salmonids and other aquatic organisms.
- **4.4**: Install soil-vegetative systems (brush mattresses and geogrid layers) in the river bank, above the Ordinary High Water Mark to re-establish a vegetated river bank.
- **4.5:** Plant native trees, shrub and herbaceous species on the levee sideslopes and overbank areas to establish a vegetated buffer between the top of the bank and the restored access road.
- **4.6:** Install three groins in the river per construction plans to slow the velocity of flood water and provide migratory resting areas for ESA fish species.
- **4.7:** Document project design and construction; prepare monitoring criteria; conduct post-project evaluation.

Deliverables:

- Two sets: As-built drawings, signed and sealed by a professional engineer licensed in the State of Washington.
- Two copies: Final project summary report, signed by the Project Engineer declaring that the project was, to the best of his/her knowledge, constructed and completed in accordance with the construction plans and specifications and generally accepted engineering/construction practice.
- Two sets: Photographic documentation (35mm color prints) of the project before and after construction in sufficient quantity to effectively illustrate important phases of construction and project progress.

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Date Due: June 30, 2005

Note: The RECIPIENT shall notify the DEPARTMENT in writing of the project's

completion and arrange for final inspection of the project by the

DEPARTMENT.

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DELIVERABLES (to Ecology)

The Recipient shall send deliverables to the Department as follows:

One copy of each progress report, payment request and deliverable as stipulated in the Scope of Work

Bev Huether WA State Department of Ecology Shorelands and Environmental Assistance Program P.O. Box 47600 Olympia, WA 98504-7600 One copy of each progress report; and one copy of each deliverable as stipulated in the Scope of Work

Dan Sokol WA State Department of Ecology - SWRO Shorelands and Environmental Assistant Program PO Box 47775 Olympia, WA 98504-7775

BUDGET

Budget Conditions

- 1. Expenditures will be monitored by the Ecology Fiscal Office for compliance with the EXPENDITURE BUDGET (listed below) at the PROJECT LEVEL.
- 2. The indirect rate is shall not exceed 25% of direct (staff) labor and benefit costs. This rate covers space utilities, miscellaneous copying, telephone, motor pool, janitorial services, records storage, rental, county fiscal and legal services, etc. Items not included in this list shall be reported with the first payment request and shall remain consistent for the life of the grant.
- 3. In-kind (voluntary services) are valued at \$15.00/hour per individual.
- 4. For the administration of this agreement the Recipient shall follow the "Administrative Requirements for Ecology Grants and Loans", current edition.
- 5. Requests for reimbursement shall be submitted at least quarterly but not more than once per month by the RECIPIENT on state invoice voucher forms. Payment requests are to include at a minimum Form A19-1A "Invoice Voucher", Form B, "Running Budget Summary", Form C:

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Voucher Support" and Form D "Contractor Participation Report" (if applicable). All requests for payment are to be consistent with the budget as below **and accompanied by a commensurate progress report.**

NOTE: Ecology forms are contained in the "Administrative Guidelines for Ecology Grants and Loans" and must be used for payment requests. Otherwise requests will be returned to the RECIPIENT for submittal on the correct forms. Electronic copies of these forms and the "Administrative Requirements for Ecology Grants and Loans" ("Yellow Book") are available at Ecology's websites:

- Forms http://www.ecy.wa.gov/biblio/91018A.html
- Yellow Book http://www.ecy.wa.gov/biblio/91018.html

Complete backup documents (to include but not limited to all invoiced costs, time sheets [signed and dated by both employee and supervisor], etc.) MUST be maintained by the RECIPIENT. These expenses will be kept in grant files according to budget task for a period of three years after project completion and made available at any time for inspection by the DEPARTMENT.

Final payment of grant projects is contingent on receipt of viable work products as listed in the grant document.

- 6. Before the final payment can be released, the RECIPIENT shall notify the DEPARTMENT in writing of the project's completion and arrange for final inspection of the project by the DEPARTMENT.
- 7. Funding for this project is contingent upon acquisition of all required permits. In addition, failure to comply with required permits constitutes a breach of contract which could result in termination of this agreement.
- 8. **Expenditure Budget:** (for Recipient reporting and Ecology tracking purposes):

Maximum Eligible Project Cost: \$77,300 Maximum State Grant Share: \$35,000 Estimated Local Share: \$42,300

State Maximum Cost Share Rate: 50% UP TO a maximum State Share of \$35,000.

| 9. | Match Requirements: The RECIPIENT'S local match shall consist of in-kind (voluntary) |
|----|---|
| | contributions, interlocal match and cash from the County's capital improvement budget. |
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9. Estimated Costs (for information only)

| Work Item | Unit | Quantity | Unit Cost | Cost |
|-------------------------|--------|----------|-----------|--------|
| Labor | | | | |
| Engineering Design | LS | 1 | 3,500 | 3,554 |
| Heavy Equip. Operator 3 | HRS | 150 | 27.00 | 4,050 |
| Heavy Equip. Operator 2 | HRS | 300 | 26.00 | 7,800 |
| Supervision | HRS | 175 | 30.00 | 5,250 |
| Sub-Sub Total | | | | 20,654 |
| Equipment | | | | |
| Dozer | HRS | 150 | 25.00 | 3,750 |
| Track Excavator | HRS | 150 | 22.60 | 3,390 |
| Dump truck | HRS | 125 | 11.00 | 1,375 |
| Sub-Sub Total | | | | 8,515 |
| Materials | | | | |
| Large Rock - 4 man | TON | 500 | 30.00 | 15,000 |
| Top Soil | CY | 100 | 30.00 | 3,000 |
| Coir Mat | Sq.Yd. | 2,000 | 2.30 | 4,600 |
| Filter Fabric | RLL | 4.2 | 525 | 2,205 |
| Log Placement | EA | 9 | 250 | 2,250 |
| Live Willow Cuttings | EA | 5,000 | 1.00 | 5,000 |
| Live Dogwood Cuttings | EA | 5,000 | 1.00 | 5,000 |
| Seeding | LS | 1 | 1,000 | 1,000 |
| Sub-Sub Total | | | | 38,055 |
| Subtotal | | | | 67,224 |
| Other | | | | |
| Administration | 15% | _ | | 10,076 |
| TOTAL PROJECT COST | | | | 77,300 |

Special Terms and Conditions for Flood Damage Reduction Projects

AGREEMENT PROVISIONS

- 1. **Compliance with all Laws:** The Recipient shall comply fully with all applicable federal, state and local laws, orders, regulations and permits.
- 2. **Restrictions on Lobbying:** The Recipient of this agreement is prohibited from using funds provided by this agreement for lobbying purposes in accordance with the Administrative Requirements for Ecology Grants and Loans, Publication No. 91-18, current edition, Part III, Section G.
- 3. **Local Decision:** This grant is made in response to a request for financial assistance from the Recipient to undertake flood hazard reduction projects. The choice of floodplain management activities addressed by this grant is a local decision made solely by the Recipient. The Recipient is not acting as an agent of the State.
- 4. Lawsuits: The Recipient agrees to accept all responsibility for any non-contractual damage or inverse condemnation claims resulting from the structures or works constructed, repaired, restored, maintained or improved pursuant to this grant. The filing of any legal action by the Recipient against Ecology, for non-contractual damage or inverse condemnation claims resulting from the structures or works constructed, repaired, restored, maintained or improved pursuant to this grant, shall be grounds for immediate termination of all open FCAAP grants with the local jurisdiction, and may jeopardize the jurisdiction's opportunity to be awarded future FCAAP funds.

5. Indemnification, Hold Harmless and Duty to Defend:

- a. The Department shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the scope of work.
- b. This paragraph applies to negligence based claims only. All other claims are governed by paragraph 4 of this section. To the extent the constitution and laws of the State of Washington permit, Recipient shall indemnify, defend and hold harmless the State, its agencies, officers and employees, from all claims, suits or actions brought for any or all injuries to persons or property arising from, or as a consequence of, negligent acts or omissions related to the construction, restoration, repair, maintenance, improvement or operation of the structures or works for which this grant is provided. If the structure or works for which this grant is received are a portion of an integrated flood protection system, Recipient agrees to indemnify, defend and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system.

The Recipient will not be required to indemnify, defend, or save harmless the State, its agencies, officers or employees as provided in the preceding paragraph of this section if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the State. Where such claims, suits, or actions result from the concurrent negligence of (a) the State, or the State's agents or employees and (b) the

Recipient or the Recipient's agent or employees, the indemnity provisions provided in the preceding paragraphs of this section shall be valid and enforceable only to the extent of the Recipient's negligence or the negligence of its agents and employees.

- c. To the extent that the constitution and laws of the State of Washington permit, Recipient shall indemnify and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the continued operation, maintenance, or repair, of the structures or works constructed, restored, repaired, maintained or improved as a result of this grant. If the structure or works for which this grant is received are a portion of an integrated flood protection system, Recipient agrees to indemnify, defend and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system. This agreement applies to all non-negligent, non-contractually based claims including, but not limited to, inverse condemnation, contribution, indemnification, trespass and/or nuisance.
- c. Recipient agrees that neither the existence nor amount of this agreement may be used as evidence in any civil proceedings in which the State of Washington, its agencies or officers are a party, except actions for breach of the grant agreement.

6. Coordination with Ecology's Geographical Information System (GIS)

IF this project involves developing GIS data, the Recipient shall coordinate with Ecology's GIS office in an effort to promote compatibility and to encourage sharing of geospatial data. To facilitate data sharing, the Department utilizes the following standards:

| Ecology's GIS Standards | | |
|-------------------------|---|--|
| ESRI's ARC/INFO | Current version | |
| ESRI's ArcView | Current Version | |
| Horizontal Datum | NAD 27 or NAD 83 (Revised 1991) | |
| Vertical Datum | NGVD 29 or NGVD 88 | |
| Projection System | Lambert Conic Conformal | |
| Coordinate System | WA State Plane Coordinates | |
| Coordinate Zone | South | |
| Coordinate Units | US Survey Foot | |
| Accuracy Standard | +/-40 Feet (1:24,000) minimum accuracy to within a foot of the true North American datum system | |
| Vector Import Format | ArcExport, DLG and/or DXF, shapefiles | |
| Raster Import Format | TIFF, BIL/BIP, RLC,GRID,ERDAS | |

Whenever possible, the Recipient is encouraged to utilize the standards listed above when compiling data. To discuss the usage of other standards, please

contact Jerry Franklin at 360 407-7470; Fax: 360 407-6902; E-Mail: jfra461@ecy.wa.gov or John Tooley at 360-407-6418; E-Mail: jtoo461@ecy.wa.gov for further data sharing and compatibility information.

The Recipient shall submit copies to Ecology's Project Officer with complete documentation as it relates to all digital data, GIS coverages, shape files, related tables and map products.

7. Quality Assurance/Quality Control (QA/QC) Plan:

IF this project involves the collection of environmental measurement data, the Recipient needs to prepare a QA/QC plan to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating this data. The plan shall be conducted in accordance with the DEPARTMENT's <u>Guidelines and Specifications for Preparing Quality Assurance Project Plans for Environmental Studies, current edition, (Ecology Publication No. 91-16). The plan must describe the monitoring and data quality objectives, procedures, and methodologies which will be used to ensure that all environmental data generated will meet these requirements. The size and complexity of the plan should be cost effective and in proportion to the magnitude of the sampling effort. The RECIPIENT may also reference <u>Technical Guidance for Assessing the Quality of Aquatic Environments</u>, February 1994 (Ecology Publication No. 91-78), in developing the plan. The QA/QC report shall be limited to a concise description of the environmental measurement aspects of this project. Ecology's Project Officer shall review and approve this plan prior to initiation of work.</u>

The QA/QC plan may describe the following elements:

- Assumptions that direct the collection and analysis;
- Resources used (such as flights for aerial photos);
- Resource documents that will be consulted;
- Field methods employed;
- Office methods employed;
- Training level of staff involved in data collection and analysis;
- Equipment/materials to be used and accurate calibration assurance.
- 8. **Annual Flood Budget:** The Recipient will provide a copy of the annual flood budget when returning signed grants to Ecology. Failure to provide this information required by WAC 173-145-030(5) will result in termination of this grant. If this information is not available, please provide a separate letter explaining why budget information is not available.

9. Access to Records and Right to Audit

- a. The RECIPIENT agrees that the Auditor for the State of Washington shall, until the expiration of three (3) years after expenditure of funds under this grant, have access to and the right to examine any directly pertinent books, documents, papers, and records of the RECIPIENT involving transactions related to this grant. The RECIPIENT agrees to include the substance of this paragraph into all grants and subcontracts payable from contract funds in whole or in part.
- b. The RECIPIENT agrees that payment(s) made under this grant shall be subject to reduction for amount charged thereto which are found after audit examination not to

constitute allowable costs under this grant. The RECIPIENT shall refund by check payable to the DEPARTMENT the amount of such reduction of payments under completed or terminated grants.

- 10. **Maintenance of Records**: All required records shall be maintained until a state audit is completed and all questions arising therefrom are resolved, or three (3) years after completion of a project, whichever is sooner.
- 11. **Consistency:** It is the responsibility of the Recipient to ensure that all sub-recipients and contractors comply with the terms and conditions of the agreement and that the State of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

12. Indemnification:

- a. The Department shall in no way be held responsible for payment of salaries, consultant's fees, and other cost related to the project described herein, except as provided in the Scope of Work.
- b. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

13. Minority And Women's Business (MWBE) Participation

The RECIPIENT agrees to solicit and recruit, to the maximum extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

In the absence of more stringent goals established by the RECIPIENT's jurisdiction, the RECIPIENT agrees to utilize the DEPARTMENT'S goals for minority- and women-owned business participation in all bid packages, request for proposals, and purchase orders. These goals are expressed as a percentage of the total dollars available for the purchase or contract and are as follows:

| Construction/Public Works | 10% MBE | 6%WBE |
|---------------------------|---------|-------|
| Architecture/Engineering | 10% MBE | 6%WBE |
| Purchased Goods | 8% MBE | 4%WBE |
| Purchased Services | 10% MBE | 4%WBE |
| Professional Services | 10% MBE | 4%WBE |

Meeting these goals is voluntary and no contract award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and the RECIPIENT and ALL prospective bidders or persons submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:

- a. Include qualified minority and women's businesses on solicitation lists.
- b. Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.

- Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- d. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- e. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

By signing this Agreement, the RECIPIENT certifies that the above steps were, or will be followed. Any contractor engaged by the RECIPIENT under this agreement shall be required to follow the above five affirmative steps in the award of any subcontract(s).

The RECIPIENT shall report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. The report will address:

- Name and state OMWBE certification number of any qualified firm receiving funds under the voucher, including any sub-and/or sub-subcontractors.
- b. The total dollar amount paid to qualified firms under this invoice.
- 14. **Quarterly Reports** are contingent on the effective date of the agreement. For timely preparation and review, quarterly reports shall convey essential information in a simple, concise manner through the use of bulleted summary statements, lists, and tables and include the following:
 - a. A comparison of actual accomplishments to the objectives established for the reporting period including a description of issues on fisheries resources;
 - b. For any work related to GIS, designate data standard utilized and associated data documentation.
 - c. Status of project schedule
 - d. Personnel changes
 - e. Any difficulties encountered during the quarter.
 - f. Environmental benefits being achieved by the project

Reporting Periods

| Progress Report | Reporting Period | Date Due |
|-----------------|-------------------------|------------------|
| 2003-2004 | | |
| First Quarter | July 1 – September 30 | October 20, 2003 |
| Second Quarter | October 1 – December 31 | January 20, 2004 |
| Third Quarter | January 1 – March 31 | April 20, 2004 |
| Fourth Quarter | April 1 – June 30 | July 20, 2004 |
| 2004-2005 | | |
| First Quarter | July 1 – September 30 | October 20, 2004 |
| Second Quarter | October 1 – December 31 | January 20, 2004 |
| Third Quarter | January 1 – March 31 | April 20, 2005 |
| Fourth Quarter | April 1 – June 30 | July 20, 2005 |

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Ecology reserves the right to terminate this agreement, as specified in paragraph K.1. of the General Terms and Conditions, for:

- a. failure to comply with quarterly reporting requirements.
- b. failure to demonstrate satisfactory progress on elements and/or tasks as described in the Scope of Work.
- 15. **Failure To Commence Work:** This grant awarded under the Flood Control Assistance Account Program is viable up to March 31, 2004. The grant agreement must be duly executed (signed by both parties) and there has been a good faith effort demonstrated toward meeting project goals that have been documented through quarterly progress reports. **If all of these conditions have not been met by March 31, 2004, the grant award is automatically rescinded and funds reprogrammed to other local jurisdictions in need.**
- 16. **Grant Closeout:** All products for this project shall be submitted to the DEPARTMENT on or before <u>July 20, 2005</u> or otherwise specified in the Scope of Work. Final payment requests must be submitted no later than **July 20, 2005**.
- 17. **All Writings Contained Herein:** This agreement, the appended "General Terms and Conditions", and the DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", contains the entire understanding between the parties, and there are no other understandings or representations except those set forth or incorporated by reference herein. No subsequent modification(s) or amendments to this agreement shall be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and DEPARTMENT and made a part of this agreement; EXCEPT a letter amendment will suffice to extend the period of performance as set forth on the page 1 of this grant agreement.

IN WITNESS WHEREOF, the parties hereby execute this Grant Agreement:

| Washington State Department of Ecology | | Willows Pond County | | |
|---|--|--|------|--|
| Gordon White Date Program Manager Shorelands and Environmental Assistance | | Signature, Authorized Official | Date | |
| | | Print Name of Authorized Official | | |
| | | Title of Authorized Official | | |
| Approved as to form only by the Assistant Attorney General | | (Note: Insert additional signature blocks(s) and/or pages if more than one signature block is required.) | | |
| | | Federal Tax Number: 91-6000000 | | |